

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sruthi Venigalla	Team: Squad #13	CCRB Case #: 201408519	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/09/2014 7:50 PM	Location of Incident: in front of 104 Montgomery Street and within the 71st Precinct stationhouse	Precinct: 71	18 Mo. SOL 2/9/2016	EO SOL 2/9/2016	
Date/Time CV Reported Tue, 08/19/2014 5:01 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 08/19/2014 5:01 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Charles Arnone	03642	950021	071 PCT
2. POM Jose Sanchez	18691	942501	071 PCT
3. POM Ryan Norwood	00421	949403	071 PCT
4. SGT Fitzroy Vigilance	04583	918667	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Charles Arnone	Abuse: In front of 104 Montgomery Street in Brooklyn, PO Charles Arnone facilitated the stop of § 87(2)(b)	
B.POM Charles Arnone	Abuse: In front of 104 Montgomery Street in Brooklyn, PO Charles Arnone searched § 87(2)(b) vehicle.	
C.POM Jose Sanchez	Abuse: In front of 104 Montgomery Street in Brooklyn, PO Jose Sanchez searched § 87(2)(b) vehicle.	
D.POM Ryan Norwood	Abuse: In front of 104 Montgomery Street in Brooklyn, PO Ryan Norwood searched § 87(2)(b) vehicle.	
E.POM Jose Sanchez	Discourtesy: In front of 104 Montgomery Street in Brooklyn and within the 71st Precinct stationhouse, PO Jose Sanchez spoke rudely to § 87(2)(b) and § 87(2)(b)	
F.SGT Fitzroy Vigilance	Discourtesy: Within the 71st Precinct stationhouse, Sgt. Fitzroy Vigilance acted rudely toward § 87(2)(b)	
G.SGT Fitzroy Vigilance	Abuse: Within the 71st Precinct stationhouse, Sgt. Fitzroy Vigilance refused to provide his name and shield number to § 87(2)(b)	

## Case Summary

On August 9, 2014, at approximately 8 p.m. in front of what the investigation determined to be 104 Montgomery Street in Brooklyn, § 87(2)(b) was cleaning his car while six individuals he identified as his family members and acquaintances were listening to music and eating pizza less than twenty feet away. One of the six individuals, § 87(2)(b) was seated in the front passenger seat of a parked minivan with the door open. The minivan belonged to § 87(2)(b) who § 87(2)(b) and § 87(2)(b) identified as their cousin. § 87(2)(b) younger brothers, § 87(2)(b) and § 87(2)(b) who were among the group, were also standing around § 87(2)(b) § 87(2)(b) stated that the music was not loud, and that nobody was smoking, or under the influence of drugs or alcohol.

§ 87(2)(b) had been seated in the minivan for approximately fifteen to twenty minutes when an unmarked vehicle, identified by the investigation as a silver Chevy Impala (RMP 524), pulled up. Three officers in plainclothes from the 71st Precinct, identified by the investigation as PO Charles Arnone, PO Ryan Norwood, and PO Jose Sanchez, exited the unmarked RMP and approached § 87(2)(b) who remained seated. An officer, identified by the investigation as PO Arnone, asked him, “What are you doing here?” and “Why are you here?” PO Arnone also asked if § 87(2)(b) had weapons in the car (**Allegation A**). § 87(2)(b) explained that it was not his vehicle and pointed out the owner of the vehicle. The officers removed § 87(2)(b) from the vehicle and searched the front passenger side door of the minivan, as well as underneath the visor, on the floor, and in the center console. The officers also searched empty plastic bags which previously held food (**Allegations B, C, and D**).

§ 87(2)(b) was handcuffed by an officer, identified by the investigation as PO Sanchez. At this point, § 87(2)(b) approached the officers and asked an officer, identified by the investigation as PO Sanchez, why § 87(2)(b) was arrested. PO Sanchez asked § 87(2)(b) for his identification, which he refused to provide. According to § 87(2)(b) PO Sanchez said, “Mind your fucking business,” and when § 87(2)(b) continued to ask why § 87(2)(b) was arrested, PO Arnone said to § 87(2)(b) “Shut the fuck up.” PO Sanchez handcuffed § 87(2)(b) and placed him in the same unmarked RMP.

§ 87(2)(b) was held within a holding cell of the 71st Precinct stationhouse for approximately five hours before he was released. At the front of the stationhouse, where his son, § 87(2)(b) and several other civilians and officers were also present, PO Sanchez pushed § 87(2)(b)'s belongings toward him, handed him a summons for § 87(2)(b), and said, “Take your shit and get out of there” (**Allegation E**). Another officer, identified by the investigation as Sgt. Fitzroy Vigilance, approached § 87(2)(b) and attempted to shove his belongings into his pockets (**Allegation F**). When § 87(2)(b) asked Sgt. Vigilance for his name and shield, Sgt. Vigilance said, “You’ll just have to figure that out yourself. I’m not giving that to you” (**Allegation G**). § 87(2)(b) then left the stationhouse.

§ 87(2)(b)'s arrest report indicates that he was observed in possession of a lit marijuana cigarette on a public sidewalk (encl. 9A-9C). The marijuana cigarette was recovered from the ground and vouchered (encl. 9F), and § 87(2)(b) was determined to have two active warrants. PO Arnone was the arresting officer.

## Mediation, Civil and Criminal Histories

This case is ineligible for mediation because of § 87(2)(b)'s arrest. The undersigned submitted a Freedom of Law Information (FOIL) request to verify if either § 87(2)(b) or

§ 87(2)(b) filed a Notice of Claim regarding this incident. The response will be placed in the case file upon receipt. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilian and Officer Histories**

- § 87(2)(b) has filed one previous complaint with the CCRB. § 87(2)(b).
- § 87(2)(b) has not filed any previous complaints with the CCRB.
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- PO Arnone has been a member of the NYPD for three years, and has had nine allegations involving three other cases. In CCRB case number 201307172, an allegation of a vehicle search was substantiated, for which he received command discipline. He has one other open case with the CCRB. § 87(2)(g)
- PO Norwood has been a member of the NYPD for four years, and has had three allegations involving one other case, none of which have been substantiated. § 87(2)(g)
- PO Sanchez has been a member of the NYPD for eight years, and has had six allegations involving four cases, none of which have been substantiated. § 87(2)(g)
- Sgt. Fitzroy Vigilance has been a member of the NYPD for 18 years, and has had 30 allegations involving 15 cases, none of which have been substantiated. There have been four allegations of a refusal to provide name and shield.

### **Additional Witnesses**

§ 87(2)(b) a friend of § 87(2)(b) and § 87(2)(b) provided a detailed telephone statement on May 11, 2015 (encl. 7). § 87(2)(b) and two other individuals, whose names he did not know, were standing around § 87(2)(b) parked minivan. § 87(2)(b) was seated in the front passenger seat of the minivan, with the door left open. § 87(2)(b) stated that music was playing from the minivan, and that they were only talking, without eating, drinking or smoking, when an unmarked black Chevy Impala pulled to a stop next to the minivan. Three men in plainclothes exited the vehicle, approached § 87(2)(b) who remained seated, and removed him from the vehicle. § 87(2)(b) stated that an officer, he only described as a white man, frisked and searched § 87(2)(b) but that none of the three officers searched the minivan, or interacted with § 87(2)(b) or any of the individuals within the group. At some point during their interaction with § 87(2)(b) an officer picked up a cigarette butt which § 87(2)(b) was unable to describe other than that it was brown. § 87(2)(b) also stated that officers were using profanity, but § 87(2)(b) was unable to recall the statements made.

### **Attempts to Contact Civilians**

- Between September 18, 2014, and January 8, 2015, the undersigned initiated five phone calls and mailed two please-call letters on November 14, 2014, and January 8, 2015, to § 87(2)(b)s confirmed contact information. On November 14, 2014, the undersigned received a voicemail from § 87(2)(b) who confirmed his phone

number. He was unable to be reached when the undersigned called back on the same day. A LexisNexis database search conducted on November 24, 2014, confirmed § 87(2)(b)'s address. No letters were returned to the CCRB by the United States Postal Service, and to date, § 87(2)(b) has not contacted the undersigned regarding this case.

- § 87(2)(g)

### **Explanation of Officer Identification**

The complaint report and the arrest report for § 87(2)(b) lists PO Arnone as the arresting officer (encl. 9A-9D), and the summons that was issued to § 87(2)(b) lists PO Sanchez as the issuing officer (encl. 13D). During their statements at the CCRB, PO Arnone and PO Sanchez identified PO Norwood as the third officer who was on the scene. The roll call identified Sgt. Vigilance as the desk officer. § 87(2)(b) alleged that the officer who handed him the summons (PO Sanchez) cursed at him, and the desk officer (Sgt. Vigilance) shoved items into his pockets and refused to provide his name and shield number. § 87(2)(g)

### **Investigative Findings and Recommendations**

**Discourtesy – Language:** When § 87(2)(b) handcuffed by an officer, identified by the investigation as PO Sanchez, § 87(2)(b) asked PO Sanchez why § 87(2)(b) was arrested. According to § 87(2)(b) PO Sanchez said, “Mind your fucking business” and when § 87(2)(b) continued to ask why § 87(2)(b) was arrested, PO Arnone said, “Oh shut up, shut the fuck up.” § 87(2)(b) did not allege discourteous language against either PO Sanchez or PO Arnone. § 87(2)(b) stated that profanity was used by the officers, although he was unable to reiterate the statements that were made. Furthermore, § 87(2)(b) only alleged profanity after the undersigned asked if profanity was used. § 87(2)(g)

### **Allegation A – Abuse of Authority: In front of 104 Montgomery Street in Brooklyn, PO Charles Arnone stopped § 87(2)(b)**

§ 87(2)(b) who denied smoking or drinking, was seated in the front passenger seat of a minivan, belonging to § 87(2)(b) when an unmarked silver Chevy Impala pulled up next to the minivan. According to § 87(2)(b) an officer, identified by the investigation as PO Arnone, approached him while he remained seated in the minivan and asked him, “What are you doing here?”; “Why are you here?” and if he had any weapons in the vehicle before removing him from the vehicle (encl. 6). § 87(2)(b) also denied that § 87(2)(b) or any other individuals in the group were drinking or smoking (encl. 7). However, both § 87(2)(b) and § 87(2)(b) stated that the officers retrieved a part of the cigarette from the ground.

PO Arnone was seated in the rear passenger seat of an unmarked silver Chevy Impala, with the windows rolled down, when from approximately one block away, he observed a group of male individuals standing on a public sidewalk around a parked four door sedan. From approximately two car lengths away, PO Arnone noted an odor of burning marijuana, and observed one of the individuals within the group, identified by the investigation as § 87(2)(b) smoking a cigarette or a marijuana cigarette, before throwing it to the ground and sitting back in the front passenger seat of the parked vehicle with the door left open. PO Arnone observed the standing individuals holding clear cups in their hands. PO Arnone was unable to



§ 87(2)(g)

**Allegation E – Discourtesy: Within the 71<sup>st</sup> Precinct stationhouse, PO Jose Sanchez spoke rudely to § 87(2)(b)**

**Allegation F – Abuse of Authority: Within the 71<sup>st</sup> Precinct stationhouse, Sgt. Fitzroy Vigilance acted rudely toward § 87(2)(b)**

**Allegation G – Abuse of Authority: Within the 71<sup>st</sup> Precinct stationhouse, Sgt. Fitzroy Vigilance refused to provide his name and shield number to § 87(2)(b)**

§ 87(2)(b) was held within a holding cell of the 71st Precinct stationhouse for approximately five hours before he was released. According to § 87(2)(b) while his son, whom he identified as § 87(2)(b) several other civilians and officers were also present, PO Sanchez pushed § 87(2)(b)'s belongings toward him, handed him a summons for disorderly conduct, and said, "Take your shit and get out of there." Another officer, identified by the investigation as Sgt. Fitzroy Vigilance, also approached § 87(2)(b) and attempted to shove his belongings into his pockets. When § 87(2)(b) asked Sgt. Vigilance for his name and shield, Sgt. Vigilance said, "You'll just have to figure that out yourself, I'm not giving that to you." § 87(2)(b) then left the stationhouse (encl. 5). § 87(2)(b) did not provide a statement regarding this incident.

PO Sanchez (encl. 14), PO Arnone (encl. 10), and PO Norwood (encl. 12) stated that § 87(2)(b) used profanity toward them and other officers at the stationhouse, and denied that any officer used profanity towards § 87(2)(b) made the alleged statement at the time of his release, or attempted to throw or "shove" his belongings into his pockets. Sgt. Vigilance did not have an independent recollection of the incident (encl. 16).

§ 87(2)(g)

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_

Title/Signature

Print

Date